

**EXHIBIT 15**  
**Part 2 of 7**

1 for long periods of time.

2 PRESIDING COMMISSIONER SAWYER: I see,  
3 okay. And you didn't bring them because you  
4 don't think you're going to need them today?

5 INMATE HERNANDEZ: I'm sure I could get  
6 by without them.

7 PRESIDING COMMISSIONER SAWYER: What  
8 strength are those glasses?

9 INMATE HERNANDEZ: I'm not sure.

10 ATTORNEY TARDIFF: I can accommodate him.

11 DEPUTY COMMISSIONER ROTH LISBERGER: Do we  
12 have a magnifier? Do you have a magnifier? Oh,  
13 reading glasses.

14 PRESIDING COMMISSIONER SAWYER: See if  
15 those help.

16 ATTORNEY TARDIFF: I guess not.

17 INMATE HERNANDEZ: I'm fine without them.  
18 Okay, thank you.

19 PRESIDING COMMISSIONER SAWYER: Okay,  
20 well you're not 1.50. We're going to get a  
21 magnifier for you. We need to ask you to look  
22 at this form. You'll notice there's a check on  
23 it, a fresh ink check that your attorney checked  
24 because it wasn't checked. It says, I do not  
25 need any help for my hearing.

26 ATTORNEY TARDIFF: I don't have any  
27 disabilities. It's about your disabilities,

1 basically. Is that still accurate?

2 INMATE HERNANDEZ: Yes.

3 PRESIDING COMMISSIONER SAWYER: Okay,  
4 good, thank you. If you'll give that back. And  
5 just as a precaution we're going to give you a  
6 magnifier that you might -- if you come to a  
7 word you don't, that you can't read then that  
8 will be there for your assistance. Ms. Tardiff,  
9 did you talk to Mr. Hernandez about his  
10 accommodations for disabilities?

11 ATTORNEY TARDIFF: I did.

12 PRESIDING COMMISSIONER SAWYER: The  
13 outline of the hearing procedure?

14 ATTORNEY TARDIFF: Yes.

15 PRESIDING COMMISSIONER SAWYER: The  
16 inmate's rights?

17 ATTORNEY TARDIFF: Yes.

18 PRESIDING COMMISSIONER SAWYER: And the  
19 confidential?

20 ATTORNEY TARDIFF: Yes.

21 PRESIDING COMMISSIONER SAWYER: Okay.  
22 Would you waive the reading of those scripts?

23 ATTORNEY TARDIFF: I do.

24 PRESIDING COMMISSIONER SAWYER: Thank  
25 you. I'll mark it Exhibit One. Do we have any  
26 confidential material, Commissioner  
27 Rothlisberger?

1 DEPUTY COMMISSIONER ROTH LISBERGER: No.

2 PRESIDING COMMISSIONER SAWYER: Okay.

3 I'm going to mark Exhibit Two. This is the  
4 hearing checklist. I've added to this  
5 checklist, which may not be on yours, the Board  
6 Report addendums and a new psychiatric report  
7 that was received today.

8 ATTORNEY TARDIFF: I have all these  
9 documents, thank you.

10 PRESIDING COMMISSIONER SAWYER: Okay.

11 ATTORNEY TARDIFF: And I've submitted a  
12 couple of things earlier, nothing further.

13 PRESIDING COMMISSIONER SAWYER: Okay,  
14 thank you. Do you have any preliminary  
15 objections, counsel?

16 ATTORNEY TARDIFF: No I don't. Oh, there  
17 was some material I received today and one of  
18 them was a letter from the District Attorney. I  
19 object to it being used as it violates the ten-  
20 day rule. I've not had enough time to -- Well  
21 it just violates the rule, period.

22 PRESIDING COMMISSIONER SAWYER: Okay, you  
23 don't have to justify it.

24 ATTORNEY TARDIFF: Thank you.

25 PRESIDING COMMISSIONER SAWYER: I'll  
26 sustain that objection. Will the inmate be  
27 speaking with the panel?

1           ATTORNEY TARDIFF: Except for he doesn't  
2 want to discuss the commitment offense but he  
3 does have something to say about the commitment  
4 offense. So I don't know how we work with  
5 something like that.

6           PRESIDING COMMISSIONER SAWYER: We'll see  
7 how it works.

8           ATTORNEY TARDIFF: Okay.

9           PRESIDING COMMISSIONER SAWYER: Okay.  
10 Okay, I'm going to be using the July 2005  
11 calendar Board Report.

12          ATTORNEY TARDIFF: Did you swear him in?

13          PRESIDING COMMISSIONER SAWYER: Oh I'm  
14 sorry, you're right. Could you raise your right  
15 hand, sir. Do you solemnly swear or affirm the  
16 testimony you are about to give in this hearing  
17 will be the truth, the whole truth and nothing  
18 but the truth?

19          INMATE HERNANDEZ: I affirm.

20          PRESIDING COMMISSIONER SAWYER: Okay,  
21 thank you. Now I'll be using the July 2005  
22 calendar Board Report page one.

23          "On 8/15/1985 at approximately  
24 3:56 a.m. Officer F. Lopez, L-O-P-  
25 E-Z, was dispatched to South 11th  
26 Street number four in Calwa, C-A-  
27 L-W-A, regarding an injured

1 person. Upon arrival Officer  
2 Lopez met four Mexican males and  
3 one female standing outside the  
4 residence. Upon entering the  
5 living room of the residence the  
6 officer observed a Mexican male  
7 subject lying on the floor with a  
8 large pool of blood under his  
9 chest and face area. The victim  
10 was pronounced dead at the scene.  
11 The victim was identified as  
12 Silvestere Odulio Bustos."

13 I'll spell all three for the transcriptionist.  
14 S-I-L-V-E-S-T-R -- I'll start again. S-I-L-V-E-  
15 S-T-E-R-E. The middle name, O-D-U-L-I-O. And  
16 the last name Bustos, B-U-S-T-O-S.

17 "A subsequent investigation  
18 determined that the victim had  
19 been shot at a close range by a  
20 shotgun. Officers made contact  
21 with several witnesses of the  
22 crime, one of whom was Enrique  
23 Casias, C-A-S-I-A-S, a roommate of  
24 the victim. He testified that at  
25 3 a.m. on the same day, 8/15/85,  
26 there was a knock on the door, at  
27 which time Casias observed

1 Hernandez standing there.  
2 Hernandez asked Casias if he had  
3 some heroin and gave him \$20.  
4 Casias said he told Hernandez to  
5 let me see if my friend has some,  
6 referring to victim Bustos.  
7 Casias was getting pieces from  
8 Bustos' boots when Hernandez  
9 kicked open the door and entered  
10 the residence with a shotgun and  
11 stated, give me the gun and give  
12 me the chiva, which means Spanish  
13 for heroin. According to Casias  
14 as soon as Hernandez said give me  
15 the gun Hernandez shot Bustos.  
16 The probation officer's report  
17 indicates that several witnesses  
18 were interviewed and that their  
19 statements correlated with Casias'  
20 statement. They also related in  
21 part that Hernandez had been to  
22 the residence on numerous  
23 occasions to purchase drugs and  
24 one day prior to the incident he  
25 had had an argument with the  
26 victim about money. Hernandez was  
27 convicted of the crime by a jury

1 trial on 5/13/1986."

2 And you said you wanted to make a statement  
3 about this crime?

4 INMATE HERNANDEZ: Well basically first  
5 and foremost I'm not proud of it. I'm extremely  
6 sorry for it, for the deceased Silvestere Odulio  
7 Bustos. Just to hear about it right now again I  
8 feel even more sorry for it. I'm overwhelmed by  
9 it that I could never repay, never bring him  
10 back to life. I do what I can, I make amends, I  
11 live my life as if somehow I can do a deed that  
12 will somehow pay for it perhaps. And I would  
13 only -- As I say I'm not proud of it. I don't  
14 even like to talk about it with anybody period,  
15 I don't. But if the opportunity for the  
16 prevention of things like this happening I will  
17 speak about it in that context, such as a 12  
18 step group or some other form of alternative to  
19 violence program. But otherwise I see no, no  
20 reason for speaking about it and thank you very  
21 much.

22 PRESIDING COMMISSIONER SAWYER: Okay. In  
23 your version that was dated February 2004 it  
24 says it remains the same. It's pretty  
25 philosophical. It says here:

26 "In order to make a statement that  
27 would give some clarity and



1 resolution I would practically  
2 have to answer the question of  
3 what is the meaning of life and  
4 death. As difficult and at times  
5 overwhelming as this task is it is  
6 what I have endeavored to do. I  
7 should say that my opponent, who  
8 became the victim, had been  
9 stealing from me and threatening  
10 my life and the actual gunshot  
11 that took his life was in self-  
12 defense, all of which is true."

13 Is that correct?

14 **INMATE HERNANDEZ:** That is correct.

15 **PRESIDING COMMISSIONER SAWYER:**

16 "Yet in order to reach a greater  
17 and healthier understanding I  
18 would first have to admit  
19 responsibility, which is what I've  
20 done. A few of the areas I  
21 addressed in order to gain a  
22 deeper understanding of the crime  
23 I committed includes my childhood,  
24 peer environment, spirituality.  
25 Only after extensive self-  
26 examination in those areas and  
27 I've reached the conclusion that I

1           needed a major adjustment in the  
2           way I relate to others, which  
3           entails developing a great  
4           integrity for morals and ethics.  
5           This is an ongoing process with  
6           continual room for improvement.  
7           Suffice to say that this journey  
8           of recovery and healing is  
9           something I'll be doing for the  
10          rest of my life."

11       Is that correct, sir?

12                **INMATE HERNANDEZ:** That is correct.

13                **PRESIDING COMMISSIONER SAWYER:** Okay.

14       In this case the victim was particularly  
15       vulnerable and the prisoner entered the victim's  
16       home and shot him while he was lying on his  
17       couch and awakened by the prisoner. The  
18       prisoner had a history of criminal behavior for  
19       which the term has been enhanced. The prisoner  
20       engaged in other reliably documented criminal  
21       conduct. Attempted drug purchase, which was an  
22       integral part of the crime for which he's  
23       currently committed. The inmate was on  
24       probation at the time the crime was committed.  
25       During the commission of the crime the prisoner  
26       had a clear opportunity to cease but continued.  
27       The manner in which the crime was committed

1 created a potential for serious injury to  
2 persons other than the victim of the crime. The  
3 mitigating factor, the prisoner participated in  
4 a crime under partially excusable circumstances,  
5 heroin inebriation that did not amount to a  
6 criminal, a legal defense. In your rap sheet  
7 under juvenile record, 1970, burglarized a  
8 doctor's office in Fresno, removed \$80 in cash  
9 and you were put on informal probation. Is that  
10 correct?

11 INMATE HERNANDEZ: That's correct.

12 PRESIDING COMMISSIONER SAWYER: How old  
13 were you then, 1970?

14 INMATE HERNANDEZ: Eleven.

15 PRESIDING COMMISSIONER SAWYER: Again in  
16 '70, entered a residence, removed nine different  
17 types of weapons, a Polaroid camera and a radio.  
18 Placed on probation without wardship until  
19 5/23/1971, case was dismissed. That also  
20 occurred when you were about 11 or were you 12  
21 then? When's your birthday?

22 INMATE HERNANDEZ: '59.

23 PRESIDING COMMISSIONER SAWYER: What  
24 month?

25 INMATE HERNANDEZ: 2/28.

26 PRESIDING COMMISSIONER SAWYER: Two,  
27 okay. So that was, you were still 11 there.

1 Then when you were 12 you entered the Mission  
2 Baptist Church, removed \$10.50. Probation  
3 ordered, released to your parents. Again in '71  
4 petty theft, subject and accomplice stole \$190  
5 from Llewellyn's (phonetic) 76 service station.  
6 Remained a ward of the court, paid restitution,  
7 work program, Sanger PD. And then in 1972,  
8 burglary. Commit to a youth center, detained  
9 juvenile hall pending transfer. And then again  
10 in '72, defendant and accomplice were found in  
11 inside of a closed business at Padilla's Market.  
12 Remained a ward of the court on probation,  
13 commit to a youth center, suspended. Okay,  
14 between '72 and '80 there wasn't any criminal  
15 offenses. What was going on in that part of  
16 your life? An eight year period there that you  
17 weren't in trouble.

18 INMATE HERNANDEZ: Well I've always, I've  
19 always aspired to work. I would have to say at  
20 that time is when, that must be when I was  
21 successful at just basically --

22 PRESIDING COMMISSIONER SAWYER: We'll  
23 pull that microphone up for you. If you could  
24 speak a little bit louder so we make sure that  
25 everything gets on the record, okay. So you  
26 were working during that period of time?

27 INMATE HERNANDEZ: I believe so.

1 PRESIDING COMMISSIONER SAWYER: Okay.

2 INMATE HERNANDEZ: Yes.

3 PRESIDING COMMISSIONER SAWYER: That  
4 would be, you would be 14, 11, 12, 13 years old  
5 in '72. Were you going to school?

6 INMATE HERNANDEZ: Probably not.

7 PRESIDING COMMISSIONER SAWYER: Okay. In  
8 1980, carrying a concealed weapon, carrying a  
9 loaded weapon, receiving stolen property. This  
10 was January of '80. In October of '80 burglary,  
11 no disposition shown. There was another part on  
12 your rap sheet that said burglary in November of  
13 1980. Then 10/6 of 1984, harboring a federal  
14 fugitive. Convicted, sentenced to 358 days in a  
15 federal correctional institution. What was  
16 that?

17 INMATE HERNANDEZ: Excuse me?

18 PRESIDING COMMISSIONER SAWYER: You were  
19 harboring a federal fugitive?

20 INMATE HERNANDEZ: Oh yes.

21 PRESIDING COMMISSIONER SAWYER: Okay, in  
22 1984.

23 INMATE HERNANDEZ: Yes.

24 PRESIDING COMMISSIONER SAWYER: And you  
25 got nearly a year in the pen.

26 INMATE HERNANDEZ: Yes.

27 PRESIDING COMMISSIONER SAWYER: Okay.

1 Who were you harboring?

2 INMATE HERNANDEZ: A friend, a friend who  
3 needed a place to stay.

4 PRESIDING COMMISSIONER SAWYER: And the  
5 feds picked him up and took you too.

6 INMATE HERNANDEZ: Yes.

7 PRESIDING COMMISSIONER SAWYER: In 1982,  
8 sale and transport marijuana, burglary,  
9 transport/sale controlled substance. All  
10 charges in that case were dismissed. And then  
11 1984, under the influence of a controlled  
12 substance, obstruction, resisting arrest,  
13 disposition none. And then we have the instant  
14 offense. You were born 2/28 of 1959 in Fresno  
15 to Guadalupe Hernandez and Dolores Megaia, M-E-  
16 G-A-I-A. One of eight children. His brother,  
17 Guadalupe Hernandez Jr. was also convicted of  
18 murder in an unrelated case. His brother is  
19 currently housed at California State Prison,  
20 Corcoran. Is he still there?

21 INMATE HERNANDEZ: Yes.

22 PRESIDING COMMISSIONER SAWYER: That you  
23 know of.

24 INMATE HERNANDEZ: He may be in a  
25 different prison in Coalinga now.

26 PRESIDING COMMISSIONER SAWYER: Okay.  
27 You completed the tenth grade at Sanger High

1 School in 1975. Passed his GED test on 5/4 of  
2 1992. Indicated that he completed vocational  
3 training in welding at Valley Technical and  
4 Trade School in Fresno. Hernandez married  
5 Joyce, Janice I'm sorry, Ramirez, R-A-M-I-R-E-Z,  
6 on 10/2 of 1982 in San Bernardino. Four  
7 children?

8 INMATE HERNANDEZ: Yes.

9 PRESIDING COMMISSIONER SAWYER: The  
10 marriage is no longer intact. His work consists  
11 of agricultural-related labor. Being a daily  
12 user of heroin, between 20 and 40 dollars worth  
13 of heroin every day. He also admitted to being  
14 a regular consumer of beer as well as sniffing  
15 glue and paint, using PCP, LSD and cocaine  
16 occasionally. While Hernandez was incarcerated  
17 in the county jail he was prescribed Synaquad.

18 INMATE HERNANDEZ: Yes.

19 PRESIDING COMMISSIONER SAWYER: I'll  
20 spell that for the transcriptionist, S-Y-N-A-Q-  
21 U-A-D. Hernandez is not receiving psychiatric  
22 treatment or medication since coming to  
23 California Department of Corrections. So who  
24 visits you?

25 INMATE HERNANDEZ: I have not had a visit  
26 in several years. The last visit I had was my  
27 ex-wife and all the kids as well as two of my

1 son-in-laws.

2 PRESIDING COMMISSIONER SAWYER: And how  
3 are your kids doing?

4 INMATE HERNANDEZ: As far as I know my  
5 son is doing fine, growing up becoming a young  
6 man. My oldest daughter is doing fine, she just  
7 had her first baby recently. Her and her  
8 husband are doing fine from all, all that I know  
9 of them as far as I know. My next daughter is  
10 doing good as far as I know. Recently graduated  
11 from college and also had her second baby. Her  
12 and her husband are doing fine. I'd have to say  
13 excellent.

14 PRESIDING COMMISSIONER SAWYER: Good.

15 INMATE HERNANDEZ: And my youngest  
16 daughter is I would have to say struggling  
17 because I know she's got it hard. She has two  
18 babies and is single.

19 PRESIDING COMMISSIONER SAWYER: And how  
20 old is she?

21 INMATE HERNANDEZ: She is approximately  
22 22.

23 PRESIDING COMMISSIONER SAWYER: Okay.  
24 They've all managed to stay out of the  
25 correctional institutions?

26 INMATE HERNANDEZ: Yes.

27 PRESIDING COMMISSIONER SAWYER: Good. Do



1 you correspond with them?

2 INMATE HERNANDEZ: I was writing and they  
3 would not respond. Rarely did they respond. I  
4 started getting response mainly from my son. I  
5 started getting a lot of response from my son.  
6 And at that time right after that I started  
7 getting response from his mother and my other  
8 daughters. Then I was, I stopped hearing from  
9 them so that's where it is.

10 PRESIDING COMMISSIONER SAWYER: How about  
11 your brothers and sisters?

12 INMATE HERNANDEZ: I have no  
13 correspondence with them. I used to write, I  
14 used to correspond with my brother in prison and  
15 we have not corresponded for some time now.  
16 That's about it.

17 PRESIDING COMMISSIONER SAWYER: Is he a  
18 lifer?

19 INMATE HERNANDEZ: Yes.

20 PRESIDING COMMISSIONER SAWYER: Okay, so  
21 what -- Tell me why you were doing all this.  
22 How did you get involved with heroin and  
23 sniffing glue and paint. What was all that  
24 about?

25 INMATE HERNANDEZ: It's a long story.

26 PRESIDING COMMISSIONER SAWYER: Can you  
27 give me the Reader's Digest version of it?

1           INMATE HERNANDEZ: I don't know where to  
2 begin. I'm in recovery now.

3           PRESIDING COMMISSIONER SAWYER: Okay.

4           INMATE HERNANDEZ: And recovery not only,  
5 not only does it, does it deal with the aspects  
6 of drugs and alcohol but also in the wider range  
7 as far as being raised up in a dysfunctional  
8 family you might say and my whole environment.  
9 But I've been -- As I say, I've been in recovery  
10 and I've accepted responsibility for, for the  
11 damage, for the drug abuse. And even for the  
12 dysfunctional family as far as even my parents.  
13 I've accepted a responsibility for them. I know  
14 they done the best. But nevertheless they was,  
15 they were lacking in education and in social  
16 skills and other aspects. And as well as for my  
17 brother. He's my only brother and he's in  
18 prison but I accept responsibility also for his  
19 recovery in the sense that I try to, I'm trying  
20 to help him in his recovery and to do better in  
21 life. I can't explain how I fell, I fell into  
22 all this situation. But maybe it was all for  
23 the good now because I've addressed all these  
24 issues. I've tackled them in the best of my  
25 ability to get an understanding as I say, not  
26 only for myself but the social, the social  
27 environment that I was in and endeavored to

1 bring a higher consciousness to the community  
2 that I come from. So as we say in recovery,  
3 we're not responsible for our addiction but  
4 we're responsible for our recovery. So I can't  
5 explain how I got there. I know there was a lot  
6 of pain and suffering and abuse and other things  
7 that happened. But I don't want to excuse it  
8 either, you know. So --

9 PRESIDING COMMISSIONER SAWYER: I guess  
10 my question to you is, do you recognize how you  
11 got here?

12 INMATE HERNANDEZ: Yes.

13 PRESIDING COMMISSIONER SAWYER: Okay,  
14 good. When did your father Guadalupe and  
15 Dolores Megaia separate?

16 INMATE HERNANDEZ: They're still together  
17 to this day.

18 PRESIDING COMMISSIONER SAWYER: Oh they  
19 are?

20 INMATE HERNANDEZ: Yes.

21 PRESIDING COMMISSIONER SAWYER: Because  
22 in your future plans it talks about Guadalupe  
23 and Lolita Hernandez.

24 INMATE HERNANDEZ: Yes, I noticed the  
25 difference. I'm not sure if I was born out of  
26 wedlock and my parents weren't legally or  
27 married through the church at that time.

1           PRESIDING COMMISSIONER SAWYER: Well no I  
2 mean, I'm looking at the first name Lolita. Is  
3 that --

4           INMATE HERNANDEZ: That's another thing I  
5 don't understand if it was, if it's a Spanish  
6 thing as a nickname or a name that related to  
7 the actual name. But her name is Lolita and  
8 she's the same person, Dolores.

9           PRESIDING COMMISSIONER SAWYER: Oh, okay.  
10 That's what I'm trying to get at is a. So  
11 they're still together.

12          INMATE HERNANDEZ: Yes.

13          PRESIDING COMMISSIONER SAWYER: And how  
14 old are they now?

15          INMATE HERNANDEZ: About eighties,  
16 pushing 80.

17          PRESIDING COMMISSIONER SAWYER: And did I  
18 hear their health was poor?

19          INMATE HERNANDEZ: Yes. They are both  
20 survivors of cancer. And my father seems to  
21 have recovered fairly well. My mother has had  
22 to have surgery twice. And her health is  
23 deteriorating.

24          PRESIDING COMMISSIONER SAWYER: Did you  
25 grow up in this house on Edgar (phonetic)  
26 Street?

27          INMATE HERNANDEZ: Yes.

1           PRESIDING COMMISSIONER SAWYER: So that's  
2 their family home, huh?

3           INMATE HERNANDEZ: Yes it is.

4           PRESIDING COMMISSIONER SAWYER: Okay.  
5 You'd live with your parents. As an alternate  
6 address as a residence with your sister Hope  
7 Hernandez in Selma.

8           INMATE HERNANDEZ: Yes.

9           PRESIDING COMMISSIONER SAWYER: Okay,  
10 Your main desire is to work as a counselor in  
11 recovery with youth and drug offenders with  
12 violence intervention. However it does not  
13 offer any letters of interest from any potential  
14 employers indicating job offers. Have you been  
15 through any courses, classes counseling  
16 certificates or anything? Have you had any  
17 formal education in counseling?

18           INMATE HERNANDEZ: Not formally, but I've  
19 participated in numerous programs. One of them  
20 I guess I would say I'm proudest of is the  
21 Relapse Prevention class where I was a  
22 facilitator and main speaker of the course. As  
23 well as I've spoken and given presentations for  
24 the cause and prevention of communicable  
25 diseases. And done other things where I get up  
26 and speak before a group.

27           PRESIDING COMMISSIONER SAWYER: Uh-hum.

1 Good, that's always the hardest part isn't it?

2 INMATE HERNANDEZ: Yeah.

3 PRESIDING COMMISSIONER SAWYER: Yes.

4 Okay, I have a letter from Glen E. Davis  
5 (phonetic) chaplain for Fresno County Jail. He  
6 says he corresponded with you for years while  
7 you've been in prison. He's trying to improve  
8 himself. To be a responsible citizen. His last  
9 letter was very positive. He's shown me that  
10 not only is he trying to make a change but he is  
11 supplying himself with tools to make him, to  
12 help him make changes that he needs in his life.  
13 Should the Parole Board see fit to release Mr.  
14 Hernandez to a rehabilitation program I believe  
15 he would be best to successfully graduate from  
16 the program. If there is anything I can do to  
17 help Mr. Hernandez get into West Care Program in  
18 Fresno, I would be willing to help in any way I  
19 could. Seems to be genuine concern for his  
20 family. Very desirous of being able to fulfill  
21 his role in supporting and caring for his  
22 family. I believe he would do his best to make  
23 a success on the outside not only for his own  
24 good but for the welfare of his family. Signed  
25 Glen Davis, September 7th 2005. What's the West  
26 Care Program?

27 INMATE HERNANDEZ: S, O, S?

1           PRESIDING COMMISSIONER SAWYER: West

2 Care --

3           INMATE HERNANDEZ: Oh, West Care. That's  
4 basically a drug recovery program.

5           PRESIDING COMMISSIONER SAWYER: And he's  
6 involved in that somehow?

7           INMATE HERNANDEZ: Actually he's the  
8 chaplain of the jail.

9           PRESIDING COMMISSIONER SAWYER: Right.

10          INMATE HERNANDEZ: And somehow comes to  
11 the awareness of this program.

12          PRESIDING COMMISSIONER SAWYER: Okay.  
13 Have you applied for that?

14          INMATE HERNANDEZ: I have and did not  
15 receive a response. The most information I got  
16 from them is I would have to be out there and  
17 have done a period of time out there in the  
18 community before going, being accepted at this  
19 place as well as an in-person interview.

20          PRESIDING COMMISSIONER SAWYER: Okay. I  
21 have a letter from July 20, 2005 from Janie  
22 (phonetic) Hernandez. A letter of  
23 recommendation in regards to Mr. Hector  
24 Hernandez. My understanding is Hector will be  
25 going before the Parole Board for a possible  
26 release. I will be speaking on behalf of Hector  
27 and give my opinion, reason and aspect why he

1 should be considered for parole. My name is  
2 Janie Hernandez and also the mother of Hector's  
3 four children, which are now adults. Knowing  
4 Hector from the past to the present I feel I  
5 know Hector quite well. I speak on his behalf  
6 solely because I'm convinced that Hector is a  
7 changed man. Not the man I knew approximately  
8 20 years ago. I've seen maturity in Hector.  
9 His ways of thinking are different. In my  
10 opinion I have been writing to Hector on and off  
11 during all these years. I see Hector a changed  
12 man. Even though communication is through  
13 letters I believe when Hector says he feels  
14 shame and regret and remorse for his criminal  
15 history, not to mention the neglect of his own  
16 family, I know it hurts Hector when I mention  
17 that his family, what his family does and what  
18 goes on in the lives of his children and  
19 grandchildren, I know he longs to be involved in  
20 their lives as part of the upbringing of  
21 grandchildren. And I believe that he's truly  
22 sorry and ready to move with his life as a  
23 positive and productive citizen if given the  
24 opportunity. I believe he's ready to work and  
25 contribute back to the community and family. I  
26 strongly believe he can do good things for  
27 himself and for the community whether it be



1 through the church he'll attend in trying to  
2 reach the youth at risk, be a father and  
3 grandfather needed in his own family, mend  
4 things up if possible. Please if you may look  
5 at his efforts while incarcerated see for  
6 yourself that he's done a lot to rehabilitate  
7 himself. Allow Hector to leave California  
8 Department of Corrections after 20 years. He's  
9 still motivated to do his part in his community.  
10 May he be allowed to prove his abilities and  
11 dedication for a productive life. And then she  
12 thanks us for our consideration. Sounds like a  
13 nice lady.

14 INMATE HERNANDEZ: I don't know what to  
15 say because I feel their pain. I know she  
16 suffered so much. And I feel responsible for a  
17 lot of that suffering. And I'm just so grateful  
18 that she, she's still, still has compassion. I  
19 don't know what to say, that's just, yeah she, I  
20 wish I could do, there's not enough I could do  
21 for her. I just look forward to doing something  
22 to somehow help her.

23 PRESIDING COMMISSIONER SAWYER: What does  
24 she do for a living?

25 INMATE HERNANDEZ: I'm not sure, some  
26 form of secretarial work.

27 PRESIDING COMMISSIONER SAWYER: She

1 writes a good letter. I mean she sounds  
2 intelligent through her communication here.

3 INMATE HERNANDEZ: Thank you, thank you,  
4 yes she is.

5 PRESIDING COMMISSIONER SAWYER: I have a  
6 letter July 10th 2005 from your mom and dad. A  
7 letter of support. Once again as in prior years  
8 we're writing to say our home with food,  
9 clothing, basic necessities and two vehicles for  
10 work and errands is open and available for  
11 Hector's return. He's welcome to stay for as  
12 long as needed. He often writes very nice  
13 letters to us filled with hope and encouragement  
14 to be honest. We would like to get one every  
15 day. But we just do not have the energy to  
16 write back that often. The older we get the  
17 more we need our son here at our side. We thank  
18 God for a new and honest son for the rest of his  
19 life. And that he will be freed to be at our  
20 side. Please accept this humble and sincere yet  
21 earnest submission in your consideration of  
22 Hector's suitability for parole. Signed by  
23 them, nice letter. And then I have a letter in  
24 Spanish from your mother.

25 INMATE HERNANDEZ: Yes.

26 PRESIDING COMMISSIONER SAWYER: I assume  
27 it's a support letter.

1           INMATE HERNANDEZ: Yes, basically in the  
2 same context.

3           PRESIDING COMMISSIONER SAWYER: And then  
4 I have a letter from, a typed letter from June  
5 6th 2005 from Tim. This is your coordinator for  
6 the Buddhist Meditation Studies?

7           INMATE HERNANDEZ: Yes.

8           PRESIDING COMMISSIONER SAWYER: It is our  
9 understanding that attendance in the Buddhist  
10 Meditation Studies Program does not entitle the  
11 parole candidate to a laudatory chrono. Since  
12 the subject parole candidate has been a faithful  
13 attendee and active and serious participant in  
14 the program, teachers would like to instead,  
15 would instead like to acknowledge his commitment  
16 with a letter of commendation. Okay, he talks  
17 in here about your about what the program is  
18 about weekly. You go to it weekly?

19           INMATE HERNANDEZ: Yes.

20           PRESIDING COMMISSIONER SAWYER: Guided  
21 meditation practices, lectures on practice and  
22 Buddhist principle for living an ethical, moral  
23 life. Active class discussion on these topics.  
24 Important aspect of the teaching also Buddhist  
25 texts and periodicals distributed to  
26 participants and readings and discussions based  
27 on the literature. Program began in January of

1 2003 and has met weekly unless prohibited by  
2 emergencies procedures. The parole candidate  
3 has been attending for the entire time. Several  
4 of the same teachers have been involved from the  
5 beginning and have come to know the parole  
6 candidate very well in the classroom context  
7 over the past two and a half years.  
8 Mr. Hernandez's participation in the class, the  
9 insight and care he has shown in spoken and  
10 written word has been exemplary. He speaks from  
11 the heart. We do not, and we have no question  
12 that he's found new peace in his life. And that  
13 he is determined not to repeat his past  
14 mistakes. Although the teachers know very  
15 little about the circumstances of  
16 Mr. Hernandez's incarceration, based solely on  
17 his behavior and attitude in the study program  
18 we believe the candidate deserves the highest  
19 consideration by the Parole Board. Nice letter.

20 INMATE HERNANDEZ: Thanks.

21 PRESIDING COMMISSIONER SAWYER: Nice  
22 letter. Are you still in the program?

23 INMATE HERNANDEZ: Still there.

24 PRESIDING COMMISSIONER SAWYER: So this  
25 is what's helped you with your inner peace  
26 and --

27 INMATE HERNANDEZ: To this day that's

1 been the biggest, yes the biggest and best  
2 aspect that has helped me in all this things  
3 I've been dealing with and coping with.

4 PRESIDING COMMISSIONER SAWYER: And who  
5 do you share this with?

6 INMATE HERNANDEZ: Everyone that would  
7 like to hear it, that needs to hear it and would  
8 welcome it.

9 PRESIDING COMMISSIONER SAWYER: Do you  
10 share it on the yard?

11 INMATE HERNANDEZ: Yes.

12 PRESIDING COMMISSIONER SAWYER: Very  
13 good. Do you have anything additional that I  
14 might have missed?

15 INMATE HERNANDEZ: No, not --

16 PRESIDING COMMISSIONER SAWYER: I mean  
17 we're not into your chronos and things yet. But  
18 in terms of your future plans.

19 INMATE HERNANDEZ: I believe that's it.

20 PRESIDING COMMISSIONER SAWYER: Okay.

21 Very good, I'm going to turn it over to  
22 Commissioner Rothlisberger.

23 DEPUTY COMMISSIONER ROTH LISBERGER: I'll  
24 still say good morning for another three  
25 minutes, good morning Mr. Hernandez. I'm going  
26 to cover your post-conviction factors from the  
27 time of your last hearing on July 1st 2004 to

1 the present. Now the, in doing so I considered  
2 your Central File. I also reviewed the Life  
3 Prisoners Evaluation Report prepared for the  
4 July 2005 calendar by Correctional Officer,  
5 Correctional Counselor I, H. Staten, S-T-A-T-E-  
6 N. The post-conviction progress reports  
7 covering the period of July 1, '04 to the  
8 present by the same CCI. And the psychological  
9 evaluation prepared for the June 2006 calendar  
10 by Doctor M. Macomber, Ph.D., that's M-A-C-O-M-  
11 B-E-R. At the time of your last hearing, last  
12 July 1st, you were housed here at CTF, correct?

13 INMATE HERNANDEZ: Correct.

14 DEPUTY COMMISSIONER ROTH LISBERGER: And  
15 the Board took action to deny parole for one  
16 year and recommended that you remain  
17 disciplinary-free, upgrade educationally with  
18 self-study and participate in self-help and  
19 therapy if available. Also at the time of your  
20 last hearing your classification score was a 19,  
21 which it remains today. So the lowest minimum  
22 mandatory. And your prior custody level was a  
23 Medium-A as it is today. I did not see any gang  
24 affiliation or vocational instruction. However  
25 I do see you do have, it kind of falls into it,  
26 they don't call it vocational, they call it  
27 academic, the PIA workshops you've been taking.

1 And that was your furniture shop and you  
2 received satisfactory to above average on that.  
3 Your work participation has been solid. It  
4 appears that, let's see, since the last hearing  
5 you've been assigned to PIA furniture, earned  
6 satisfactory to above average work grades. And  
7 supervisor's comments were, Hernandez continues  
8 to work well with others. From December 16th  
9 '04 to April 7th '05 the work record was you  
10 were assigned to PIA wood furniture factory  
11 assembly shop. And there were no work  
12 supervisor reports in it for that period.  
13 However the latest one 4/8/05 to 5/4/06, PIA  
14 wood furniture factory assembly shop, earned  
15 satisfactory to above average work grades per  
16 work supervisors' reports dated 6/1/05 and  
17 9/1/05. And you also received a 128(b), 12/9/05  
18 for participating in two hours of video  
19 instruction and discussion related to community  
20 reentry. This program is provided through the  
21 PIA inmate employability program. I also have  
22 some that you brought with you today some  
23 additional work supervisors' reports. This one  
24 dated, let's see, 12/1/05 where you were  
25 assigned to the desk line and will train as  
26 necessary. The next one dated 3/1/06 in which  
27 you received a pay status raise. And you're

1 doing a good job on the desk line. And this  
2 last one dated actually, 6/1/06, very recent, a  
3 hard worker as the supervisor calls you. You  
4 are doing a good job and you're doing quite well  
5 on your pay scale.

6 INMATE HERNANDEZ: Thank you.

7 DEPUTY COMMISSIONER ROTH LISBERGER: So I  
8 do want to commend you on that. In addition on  
9 your group activities since your last hearing  
10 you, let me see, participated in Narcotics  
11 Anonymous for the first, second, third, fourth  
12 quarters of 2004 as well as also elected by the  
13 group back then as its co-chairperson, all  
14 right. And then more recently participated in  
15 NA group meetings dated with 128(b)'s dated  
16 6/28/05, 1/21/05, 1/6/06, 4/3/06, I think didn't  
17 I see another one, yes I do, 5/11/06 and  
18 received a 128 for participating in, I'm sorry,  
19 attended Narcotics Anonymous meetings.  
20 Completed ten weeks of hepatitis C group  
21 meetings with staff psychologist C. Brown, Ph.D.  
22 And that's per the 128(c), dated 8/20/, 5/05.  
23 You also received a letter of commendation which  
24 I believe the Commissioner read from the  
25 Buddhist Meditation and Ethical Practices dated  
26 6/6/05. So I commend you on your participation  
27 in NA. How long you been involved in NA?



1 INMATE HERNANDEZ: Eleven years.

2 DEPUTY COMMISSIONER ROTH LISBERGER: How  
3 old were you when you started using heroin?

4 INMATE HERNANDEZ: I was probably 21  
5 maybe. I started maybe that's late for some  
6 people.

7 DEPUTY COMMISSIONER ROTH LISBERGER: Yeah.

8 INMATE HERNANDEZ: Yeah.

9 DEPUTY COMMISSIONER ROTH LISBERGER: What  
10 about when did you start sniffing glue and  
11 paint?

12 INMATE HERNANDEZ: That was at a young  
13 age.

14 DEPUTY COMMISSIONER ROTH LISBERGER: As a  
15 kid?

16 INMATE HERNANDEZ: Yes.

17 PRESIDING COMMISSIONER SAWYER: Laudatory  
18 chronos, I believe there's eight of them. I  
19 just read one from the, the latest one from  
20 5/11/06. You've also got the NA groups on  
21 4/3/06, 1/6/06 NA. And here's the inmate  
22 employability program and that's from the Prison  
23 Industry Authority. You've also got three hours  
24 of IEP video review inmate employability. And  
25 that was also from Prison Industry Authority  
26 dated December 9th 2005. Again your third  
27 quarter laudatory chrono for 2005 from NA, NA

1   laudatory chrono 6/28/05.   Laudatory chrono  
2   3/28/05 for NA and 10/1/04, well that was after  
3   your last hearing on the third quarter NA.   When  
4   you think of being released how important do you  
5   feel it's going to be to continue with your  
6   involvement with NA?

7           INMATE HERNANDEZ:   One hundred percent  
8   is --

9           DEPUTY COMMISSIONER ROTH LISBERGER:   And  
10   why is that?

11          INMATE HERNANDEZ:   Pretty much my whole  
12   life of recovery and just remaining alive has to  
13   be with staying sober.

14          DEPUTY COMMISSIONER ROTH LISBERGER:   I've  
15   read some of the things that you've written and  
16   they're quite eloquent.   Do you share those with  
17   others?

18          INMATE HERNANDEZ:   Yes.

19          DEPUTY COMMISSIONER ROTH LISBERGER:   Do  
20   you think of doing something with your writing?

21          INMATE HERNANDEZ:   Yes, absolutely, I try  
22   to share in publications like before I used to  
23   contributed to the Soledad Star.

24          DEPUTY COMMISSIONER ROTH LISBERGER:   Uh-  
25   hum.

26          INMATE HERNANDEZ:   And then I've also  
27   contributed some to the Santa Cruz National

1 Public Radio Program. Poetry --

2 DEPUTY COMMISSIONER ROTH LISBERGER:

3 Excuse me.

4 (The tape was turned over.)

5 DEPUTY COMMISSIONER ROTH LISBERGER: We're  
6 back on record and you were saying about the  
7 Santa Cruz Public Radio?

8 INMATE HERNANDEZ: Yes, poetry, they have  
9 a poetry show segment on Sunday nights. And I  
10 contributed several of my poems to them. And  
11 other places that would benefit by the format  
12 that I write in as far as recovery and other  
13 things in living better, basically.

14 DEPUTY COMMISSIONER ROTH LISBERGER: Very  
15 good. Disciplinary, your most recent was a 115  
16 was on a July 1990 for disrespect towards staff.  
17 You had seven total 115's in the 20 years you've  
18 been down. And 128(a)'s counseling chronos,  
19 you've had 11 with the most recent being in the  
20 year 2000 regarding yard call. So I do also  
21 look at your history doesn't show other than the  
22 instant offense any real violence. You know  
23 your 128's and your 115's, you had a utility  
24 knife or something. I don't know if that could  
25 be construed as a weapon or what. This  
26 correctional counselor recommended after your  
27 last hearing that you remain disciplinary-free

1 which it appears you have. Participate in self-  
2 help and substance abuse, which you've been  
3 doing. And cooperate with the psychiatrist or  
4 psychologist on a new report. And that also you  
5 did. As a matter of fact Dr. Macomber writes,  
6 that your Axis I is no mental disorder, your  
7 Axis II is no personal disorder, your GAF score  
8 is a 90 which is very high and states that in  
9 considering potential for dangerous behavior in  
10 the institution he agrees with the prior  
11 evaluator that said that your potential is below  
12 average in comparison to other inmates. And you  
13 apparently told that evaluator that in 1991 or  
14 you told this doctor you underwent serious life  
15 changes. And since that time he's been trying  
16 to live a law-abiding life. Sounds to me that's  
17 when you got clean and sober.

18 INMATE HERNANDEZ: Yes that's it.

19 DEPUTY COMMISSIONER ROTH LISBERGER: In  
20 considering potential for dangerous if released  
21 to the community the level of service inventory  
22 revise was administered. And on that you  
23 obtained a score of 4.2 cumulative frequency for  
24 prison inmates. This score means that if one  
25 hundred men were released on parole you would be  
26 expected to do better on parole than 95.8 of  
27 them. And Dr. Macomber also agrees with the

1 prior evaluator that stated you did not pose any  
2 more risk to the community at this time in his  
3 life than the average citizen. In fact he poses  
4 less risk due to his growth, maturity and  
5 improvement. And he did not find any  
6 significant risk factors in this case. The  
7 doctor writes that you have excellent wood  
8 working skills. Would be able to obtain  
9 employment immediately in the community.  
10 Considerable family support and your level of  
11 insight and self-understanding is impressive.  
12 He obviously has undergone significant, mental,  
13 spiritual and emotional changes over the years  
14 of incarceration. And the prognosis for  
15 successful adjustment in the community is  
16 excellent. You know something that I was very  
17 impressed with your meditation. I also  
18 participate in that. And I encourage many of  
19 the men who appear before me that perhaps that's  
20 something they might want to consider. I hope  
21 you do continue to share your insight on the  
22 yard. Have I missed anything counsel?

23 ATTORNEY TARDIFF: No I don't believe so.

24 DEPUTY COMMISSIONER ROTH LISBERGER: All  
25 right, commissioner.

26 PRESIDING COMMISSIONER SAWYER: Thank  
27 you. What kind of vocational programs have you

1 completed?

2 INMATE HERNANDEZ: Mill and cabinet.

3 I've also formerly had a completion in arc  
4 welding.

5 PRESIDING COMMISSIONER SAWYER: Arc  
6 welding?

7 INMATE HERNANDEZ: Yes.

8 DEPUTY COMMISSIONER ROTH LISBERGER: And  
9 there are certificates in the C File.

10 PRESIDING COMMISSIONER SAWYER: Okay.  
11 How about vocational graphic arts and printing?

12 INMATE HERNANDEZ: I have some experience  
13 in that.

14 PRESIDING COMMISSIONER SAWYER:  
15 Experience but no completions.

16 INMATE HERNANDEZ: I wouldn't say, I  
17 don't know if it would qualify for a job. I can  
18 probably enter as a lay person. But as far as  
19 skills on a qualified level I can't claim that.

20 PRESIDING COMMISSIONER SAWYER: Now your  
21 arc welding did you receive a state  
22 certification on that?

23 INMATE HERNANDEZ: Yes.

24 PRESIDING COMMISSIONER SAWYER: Okay.  
25 Miss Tardiff do you have any questions?

26 ATTORNEY TARDIFF: No I don't.

27 PRESIDING COMMISSIONER SAWYER: Do you

1 have any additional questions?

2 DEPUTY COMMISSIONER ROTH LISBERGER: No I  
3 don't, thank you.

4 PRESIDING COMMISSIONER SAWYER: Thank  
5 you. Miss Tardiff.

6 ATTORNEY TARDIFF: Thank you. I think  
7 that the bottom line here is basically that Mr.  
8 Hernandez would probably continue to be a danger  
9 to society if he returned to substance abuse. I  
10 think that everything is key to that. In from  
11 what the reports indicated, in his own testimony  
12 and his commitment to the Twelve Step Program I  
13 don't think that he will return to the use of  
14 drugs or alcohol. I think that he realizes the  
15 damage it has done, not only to his life, but  
16 more importantly, to the taking of the victim's  
17 life in this case. He's clean and sober for 11  
18 years. At that point he made a commitment, a  
19 real commitment to deal with his abuse of drugs.  
20 And I think it shows. He's prepared himself for  
21 the outside by obtaining a vocation in mill and  
22 cabinet. And currently he's in PIA furniture.  
23 Both of those are very employable skills. He  
24 also takes a leadership role in his Narcotics  
25 Anonymous meetings as co-chair. He receives  
26 excellent work reports, satisfactory to above  
27 average. He completed his GED. He has strong

1 support out in the community from his family as  
2 well as his ex-wife or common law wife. His  
3 last two psych evals are supportive of release.  
4 The most recent which a lot of that has been  
5 gone over but I'd like to add that it states his  
6 judgement was intact. His insight and self-  
7 awareness was excellent. He has spent a great  
8 deal of time in introspection and analysis of  
9 his life. At this point in his life alcohol and  
10 drugs is no longer a serious problem. He has no  
11 longer no sort of Axis I diagnosis which would  
12 relate to substance abuse. No personality  
13 disorder and a high GAF score of 90. Under  
14 review of the life crime that he accepts full  
15 responsibility for the death of the victim and  
16 his actions during the commitment offense. It  
17 states, he has spent a great deal of time  
18 thinking about his life. He did express  
19 feelings of sorrow and remorse at the victim's  
20 death as well as the victim's family's loss by  
21 suffering and grief. He stated that he wants to  
22 atone for this offense in any way that he can.  
23 It is apparent that this man has gone through  
24 some serious self-exploration and serious life  
25 changes. His feelings appear to be quite  
26 sincere and genuine. He seems to be trying to  
27 lead a good, productive, helpful life, good,



1 productive, helpful to others life. And the  
2 inventory we went through that. The testing  
3 procedure is very low in terms of his  
4 dangerousness. I agree with the prior evaluator  
5 that stated that he did not pose any more risk  
6 to the community at this time in his life than  
7 the average citizen. In fact he probably poses  
8 less risk due to his growth, maturity and  
9 improvement. He concludes that he has excellent  
10 wood working skills, considerable family support  
11 and his level of insight and self-awareness is  
12 impressive. His prognosis is excellent. And in  
13 terms of the second most recent which was done  
14 in '99, it's stated that his level of insight  
15 and judgement in general and specifically  
16 regarding his commitment offense are good and  
17 support a causative prediction of successful  
18 adaptation to community living. He did appear  
19 to be general penitent for his crimes. His  
20 level of dangerousness is no more than the  
21 average citizen in the community. And basically  
22 that this is the, his prior criminal history is  
23 mainly property crimes and drug related. Since  
24 he's been incarcerated he hasn't had any 115's  
25 which were violent in nature or showed any  
26 tendencies towards violence or threats of  
27 violence. I think at this time that he has made